

NOTICE OF INTENT

Department of Health

Board of Medical Examiners

Licensure and Certification;

(LAC 46:XLV.305, 416, 433, 441, 449 & 4005)

Notice is hereby given that in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 *et seq.*, and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (Board) by the Louisiana Medical Practice Act, R.S. 37:1270, R.S. 37:1275, R.S. 37:1277, R.S. 37:1281 and R.S. 37:1285, and R.S. 37:1310.1, Section 5(d) and 7(b), the board proposes pursuant to (a) add LAC 46:XLV.305 so as to provide a severability clause applicable to the Chapter; (b) add LAC 46:XLV.416, for those licensed pursuant to R.S. 37:1310.1, the Interstate Medical Licensure Compact (“IMLC”), so as to conform the information and data the Board receives from IMLC practitioners to match the same type of information and data it already receives from licensure applicants who have applied for licensure, renewal and/or reinstatement under R.S. 37:1271-1291.1 and the Board’s rules under LAC 46:XLV.123 *et seq.*, all in accordance with R.S. 37:1310.1, Section 5(d); and (c) amend LAC 46:XLV.433, 441, 449, and 4005 to require all IMLC licenses to comply with continuing medical education requirements pursuant to R.S. 37:1310.1, Section 7(b), similar to those already expected of individuals licensed under R.S. 37:1271-1291.1 and the Board’s rules under LAC 46:XLV.123 *et seq.* These Rules will be adopted on the 1st day of July 2021 or the day of promulgation, whichever occurs last.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 3. Physicians

Subchapter A. General Provisions

§305. Severability

A. If any rule, provision, or item of this Chapter or the application thereof is held invalid as in excess of or inconsistent with statutory or constitutional authority, such invalidity shall not affect other rules, provisions, items, or applications, and to this end the rules and provisions of this Chapter are hereby declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261 *et seq.*, 1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 47: (2022).

Subchapter I. License Issuance, Termination, Renewal, Reinstatement, ~~and~~ Exemptions and Expiration

§416. Requirements immediately following licensure under La. R.S. 37:1310.1

A. Within 90 days of the issuance of, reinstatement of and/or renewal of a license pursuant to R.S. 37:1310.1 ("IMLC license"), the license holder must provide the board with the following required for the practice of medicine pursuant to La. R.S. 1310.1, Section 5(d):

1. satisfactory documentation establishing he or she is a citizen of the United States or possesses valid and current legal authority to reside and work in the United States duly issued by the commissioner of the Immigration and Naturalization Service of the United States under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8 CFR); and,

2. sworn, written responses, on forms the board has approved and which the board supplies, addressing the following topics regarding the license holder and/or his/her professional medical corporation:

a. injuries, disorders and/or conditions diagnosed within the last ten years, which could reasonably be expected to affect the ability to practice;

b. any and all past arrests, even those that have been expunged or judicially removed, with the exception of misdemeanor traffic offenses that do not involve alcohol or drugs;

c. failures of professional licensure or certification exams;

d. the denial, voluntary surrender, failure to renew, restriction, discipline, termination, probation, investigation of and/or any other action taken against any state, federal and/or privately issued professional license, registration, certification, affiliation and/or membership;

e. the denial, voluntary surrender, failure to renew, restriction, discipline, termination, probation, investigation of and/or any other action taken against the license holder's professional privileges and/or affiliation with any health care facility of any type;

f. the denial, voluntary surrender, failure to renew, requirement of additional training/remediation, extension, restriction, discipline, termination, probation, investigation of and/or any other action taken against the license holder's participation in any private, federal and/or state health insurance program;

g. the denial, voluntary surrender, failure to renew, requirement of additional training/remediation, extension, restriction, discipline, termination, probation, investigation of and/or any other action taken against the license holder during their professional training (whether as a student, intern, resident, fellow or other trainee); and,

h. the filing of any lawsuits, and/or the settlements of any medical malpractice, intentional tort and/or fraud claims.

B. Should the information and/or documentation, produced pursuant to §416A.2., provide sufficient cause to indicate that a violation of the laws or rules administered by the board may have occurred, such information will be reviewed or investigated in accordance with §9709 or §9711 of this Chapter, in accordance with §9705E.

C. Any violation or failure to comply with the provisions of this section shall be deemed unprofessional conduct and conduct in contravention of the board's rules, in violation of R.S. 37:1285(A)(13) and (30), respectively, as well as violation of any other applicable provision of R.S.

37:1285(A), providing cause for the board to suspend, revoke, refuse to issue or impose probationary or any other restrictions on any license held or applied for by a physician culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1271, R.S. 37:1275, R.S. 37:1277, R.S. 37:1281, R.S. 37:1285 and R.S. 37:1291.1.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 47: (2021)

Subchapter K. Continuing Medical Education

§433. Scope of Subchapter

A. The rules of this Subchapter provide standards for the continuing medical education ("CME") requisite to the renewal or reinstatement of licensure, as provided by §§417 and 419 of these rules and prescribe the procedures applicable to satisfaction and documentation of continuing medical education in connection with applications for renewal or reinstatement of licensure, or in the case of a license issued pursuant to R.S. 37:1310.1 ("IMLC license"), in connection with the requirements for the practice of medicine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and La. R.S. 37:1310.1§5d & §7b.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:695 (April 2000); LR 47: (2021).

§441. Failure to Satisfy Continuing Medical Education Requirements

A. Non-Compliance; Reinstatement of Licensure. As described in §443 of this Subchapter, all licensees who are renewing and/or have just renewed, are required to complete applicable CME.

1. With the exception of a license issued pursuant to R.S. 37:1310.1, in all other instances, a licensee:

a. who fails to satisfy the continuing education requirements of the rules in Subpart 2 shall not be eligible for licensure renewal consideration;

b. The license of a physician which has expired for nonrenewal, was deemed ineligible or has been revoked under section A.1., for failure to satisfy the CME requirements of §435 and/or §449 of these rules, may be reinstated pursuant to §419 upon written application to the board, accompanied by payment of the reinstatement fee required by §419, in addition to all other applicable fees and costs, together with satisfactory evidence by affidavit that for each year since the date on which the applicant's license was last issued or renewed:

i. he has completed the requirements of §435 and/or the provisions of §449, if the licensee's failure to satisfy involved his first renewal year; or

ii. his failure to satisfy the continuing medical education requirements was occasioned by disability, illness or other good cause as may be determined by the board pursuant to §445; or

iii. he is/was exempt from such requirements pursuant to §447.

c. With regard to the license of a physician which has expired for nonrenewal, is deemed ineligible or has been revoked under section A.1., on more than one occasion for failure to satisfy the CME requirements of §435 and/or §449, such violation and/or failure shall be deemed unprofessional conduct and conduct in contravention of the board's rules, in violation of R.S. 37:1285(A)(13) and (30), respectively, as well as violation of any other applicable provision of R.S. 37:1285(A), providing cause for the board to suspend, revoke, refuse to issue or impose probationary or any other restrictions on any license held or applied for by a physician culpable of such violation.

2. With regard to those licensed pursuant to La. R.S. 37:1310.1:

a. a licensee who fails to evidence satisfaction of the continuing medical education requirements prescribed by the rules in Subpart 2 and by R.S. 37:1310, Section 7(b), shall be given written notice of such failure by the board immediately after renewal. Such notice shall be mailed to the most recent address of the licensee as reflected in the official records of the board and the licensee will have 90 days within which to furnish satisfactory evidence by affidavit, for each year since the date on which the applicant's license was last issued or renewed, that:

i. he has completed the requirements of §435 and/or the provisions of §449, if the licensee's failure to satisfy involved his first renewal year; or

ii. his failure to satisfy the continuing medical education requirements was occasioned by disability, illness or other good cause as may be determined by the board pursuant to §445; or

iii. he is exempt from such requirements pursuant to §447.

b. If, after the lapse of 90 days from notification as outlined in subsection a., the licensee still fails to comply with the provisions of section A.2., as verified using the board's electronic education tracker, then the board shall refer the licensee to the Department of Investigations so that it may, via informal, non-disciplinary communications and/or meetings, notify the licensee of the relevant statutory and/or regulatory requirements and confirm the licensee's intention to immediately comply with subsection a.

c. With regard to a licensee, who has already received a warning via subsection b, thereafter fails by the next renewal to satisfy all of the CME requirements of §435 and/or §449 for the licensee's years of licensure, then such violation and/or failure shall be deemed unprofessional conduct and conduct in contravention of the board's rules, in violation of R.S. 37:1285(A)(13) and (30), respectively, as well as violation of any other applicable provision of R.S. 37:1285(A), providing cause for the board to suspend, revoke, refuse to issue or impose probationary or any other restrictions on any license held or applied for by a physician culpable of such violation.

~~B. The license of a physician which has expired for nonrenewal or been revoked for failure to satisfy the CME requirements of §435 of these rules, may be reinstated pursuant to §419 upon written application to the board, accompanied by payment of the reinstatement fee required by §419, in addition to all other applicable fees and costs, together with documentation and certification that the applicant has, for each year since the date on which the applicant's license was last issued or renewed, completed an aggregate of 20 hours of board approved CME.~~

~~—C. The license of a physician which has expired, has not been renewed or has been revoked for failure to meet the requirements of §449, or one which has expired, has not been renewed or has been revoked on more than one occasion for failure to satisfy the CME requirements of §435 of these rules shall be deemed in violation of R.S. 37:1285.A(30), providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license held or applied for by a physician to practice medicine in the state of Louisiana, who is culpable of such violation.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8) and 37:1280.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:696 (April 2000); LR 47: (2021).

§449. CME Requirement for Initial Renewal of License

A. Effective on and after January 1, 2002, every physician seeking the initial renewal of medical licensure, whether such license was originally issued by the board on the basis of examination, reciprocity or reinstatement shall, as part of the continuing medical education required by this Subchapter, evidence and document, upon forms and/or methods supplied by the board, successful completion of an online orientation/jurisprudence program approved by the board and available through the board's Licensing Department.

1. With the exception of a license issued pursuant to R.S. 37:1310.1, the requirement of §449.A is a condition prerequisite to the person's license being renewed for the first time in the state of Louisiana;

2. With regard to licenses issued pursuant to R.S. 37:1310.1, the requirement of §449.A must be fulfilled, at the latest, within 90 days of the person's license being renewed for the first time in the state of Louisiana, in accordance with R.S. 37:1310.1, Section 7(b).

B. A physician required to complete an orientation/jurisprudence program pursuant to §449.A shall, for each hour of attendance as may be required by the board, be granted an hour-for-hour credit towards the annual CME requirement specified by §435. The program required pursuant to §449.A shall be conducted at such locations, on such dates and at such times as may be designated by the board. It shall consist of not less than two hours in duration and involve such content, topic and structure as the board may from time to time deem appropriate.

~~—C. Notification of the dates, times and locations at which such programs will be offered, as well as the enrollment procedure, shall be mailed to the most recent address of each applicant subject to the requirements of §449.A as reflected in the official records of the board. A physician's failure to notify the board of a change of mailing address will not absolve the applicant of the requirement to attend a board sponsored/approved orientation program as a condition of approval of an initial request for licensure renewal.~~

~~D. A physician required to attend an orientation/jurisprudence program pursuant to §449.A shall, for each hour of attendance as may be required by the board, be granted an hour-for-hour credit towards the annual CME requirement specified by §435.~~

~~E. A physician who at the time of the initial renewal of medical licensure resides and practices medicine exclusively outside of Louisiana or who has held an unrestricted license to practice medicine in any state for at least 10 years may, in lieu of personal attendance, satisfy the mandatory requirements of Subsection A of this Section by successfully completing the board's orientation program on line in a manner specified by the board.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:697 (April 2000), amended LR 27:850 (June 2001), LR 36:1243 (June 2010); LR 47: (2021).

Chapter 40. Continuing Medical Education on Controlled Dangerous Substances

Subchapter A. General Provisions

§4005. Continuing Medical Educational Requirement for Controlled Dangerous Substances

A.....

E. Non-Compliance; Reinstatement of Licensure. The license of an authorized prescriber:

1. With the exception of a license issued pursuant to La. R.S. 37:1310.1, the requirement of §4005.A is a condition prerequisite to the person's license being renewed for the first time in the state of Louisiana;

a. A license which has not been renewed for failure to satisfy the CME requirement may be reinstated upon application to the board, accompanied by payment of the renewal fee required by Subpart 1 of these rules, in addition to all other applicable fees and costs, together with confirmation of completion of the CME required by this Section.

b. The license of a physician which has expired for nonrenewal, was deemed ineligible or has been revoked under section E.1., for failure to satisfy the CME requirements of §4005.A of these rules, may be reinstated pursuant to §419 upon written application to the board, accompanied by payment of the reinstatement fee required by §419, in addition to all other applicable fees and costs, together with satisfactory evidence of completion of the requirements of §4005.A.

c. With regard to the license of a physician which has expired for nonrenewal, is deemed ineligible or has been revoked under section E.1., on more than one occasion for failure to satisfy the CME requirements of §4005.A, such violation and/or failure shall be deemed unprofessional conduct and conduct in contravention of the board's rules, in violation of R.S. 37:1285(A)(13) and (30), respectively, as well as violation of any other applicable provision of R.S. 37:1285(A), providing cause for the board to suspend, revoke, refuse to issue or impose probationary or any other restrictions on any license held or applied for by a physician culpable of such violation.

2. With regard to licenses issued pursuant to La. R.S. 37:1310.1, the requirement of §4005.A must be fulfilled, at the latest, within 90 days of the person's license being renewed for the first time in the state of Louisiana.

a. Such licensee who fails to evidence satisfaction of the continuing medical education requirements prescribed by the rules in Subpart 2, shall be given written notice of such failure by the board immediately after renewal. Such notice shall be mailed to the most recent address of the licensee as reflected in the official records of the board and the licensee will have 90 days within which to furnish satisfactory evidence by affidavit that he has satisfied the applicable continuing medical education requirement.

b. If, after the lapse of 90 days from notification as outlined in subsection a., the licensee still fails to comply with the provisions of §4005.A, as verified using the board's electronic education tracker, then the board shall refer the licensee to the Department of Investigations so that it may, via informal, non-disciplinary communications and/or meetings, notify the licensee of the relevant statutory and/or regulatory requirements and confirm the licensee's intention to immediately comply with subsection a.

c. With regard to a licensee, who has already received a warning via subsection b, thereafter fails by the next renewal to satisfy all of the CME requirements of §435 and/or §449 for the licensee's years of licensure, then such violation and/or failure shall be deemed unprofessional conduct and conduct in contravention of the board's rules, in violation of R.S. 37:1285(A)(13) and (30), respectively, as well as violation of any other applicable provision of R.S. 37:1285(A), providing cause for the board to suspend, revoke, refuse to issue or impose probationary or any other restrictions on any license held or applied for by a physician culpable of such violation.

3. Each hour of attendance required by the board pursuant to §4005.A, will count as an hour-for-hour credit towards the annual CME requirement specified by §435.

~~.... G. Conflict. In the event of a conflict between the provisions of this Section concerning the one-time CME requirement for CDS, and those of any other Section in this Part, the provisions of this Section shall govern.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(8), 1270(B)(6), 37:621, 37:628, 37:1360.23 and 37:1360.51-1360.72.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:771 (April 2018); LR 47: (2021).